

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for considering the material cited in the Supplemental Information Disclosure Statement filed in the present patent application on February 22, 2010, by the return of the signed copy of the Form PTO-1449 attached to the Official Action.

With regard to the Official Action, Applicants note the Examiner's acknowledgement that there is adequate support for the expression "ISMA header" in Applicants' corresponding International Application WO 2004/100442 A1. However, Applicants respectfully traverse the Examiner's comments regarding Applicants' Japanese priority Application No. 2003-131372, for the reasons previously provided.

In the Official Action, Applicants note that the Examiner has commented on various Information Disclosure Statements filed in the present application. More specifically, the Examiner asserts that the Information Disclosure Statement (IDS) filed June 15, 2009 does not fully comply with 37 C.F.R. § 1.98(a)(1), since the submitted Chinese Office Action was not listed on the IDS. Similarly, the Examiner asserts that the IDS filed February 22, 2010 also does not fully comply with the above-cited rule, since the submitted Japanese Office Action was not listed on the IDS. Contrary to the Examiner's assertions, Applicants respectfully submit that the above-cited Information Disclosure Statements fully comply with the applicable IDS rules. The Chinese and Japanese Office Actions were submitted consistent with Applicants' duty of disclosure, and to assist the Examiner. Applicants submit that these Office Actions, however, were not listed on the corresponding IDS since the Office Actions themselves are not "prior art" with respect to the present patent application.

With regard to the IDS filed February 8, 2006, the Examiner again noted that a copy of the listed non-patent literature "Encryption and Authentication Specification", Version 1, (March 3, 2004), Internet Streaming Media Alliance (ISMA), was not provided. Applicants note that a copy of this document was apparently not provided to the USPTO by the International Searching Authority (ISA). Applicants further note that this document was never officially published, and is not available on the ISMA website. Thus, despite the extensive efforts of the Examiner and Applicants to locate a copy of this document, a copy of this document can not be located. However, Applicants have located a related version of the ISMA specification, dated October 2003. A copy of this related version of the ISMA specification is provided in an Information Disclosure Statement, concurrently filed herewith, for consideration by the Examiner.

In the Official Action, claims 1-9 were rejected under 35 U.S.C. § 112, second paragraph as being incomplete. Claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior Art (AAPA) in view of SHAMOON et al. (U.S. Patent No. 7,233,948 B1), HERPEL et al. ("MPEG-4 Systems: Elementary Stream Management"), and TAKAKU (U.S. Patent No. 7,099,491 B2). Additionally, claims 1-9 were rejected under 35 U.S.C. § 102(e) as being anticipated by SHEN et al. (U.S. Patent Application Publication No. 2004/0236956 A1).

Upon entry of the present amendment, claims 1-9 have been cancelled. New claims 10-18 have been added. Thus, claims 10-18 are currently pending for consideration by the Examiner.

In the Official Action, claims 1-9 were rejected under 35 U.S.C. § 112, second paragraph as being incomplete, for omitting essential structural cooperative relationships of elements. More specifically, the Official Action asserts that the claims do not recite sufficient structural

elements of the claimed “transmitting device” to perform the functions recited in claims 1-9. In the present amendment, Applicants have cancelled the “transmitting device” claims 1-9. Thus, Applicants respectfully submit that the rejection of claims 1-9 under 35 U.S.C. § 112, second paragraph, has been rendered moot.

Claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants’ Admitted Prior Art (AAPA) in view of SHAMOON, HERPEL, and TAKAKU. The Official Action asserts that various features of independent claims 1 and 3 are found in each of AAPA, SHAMOON, HERPEL, and TAKAKU, and concludes that claims 1 and 3 are obvious. (See Official Action, pages 6-8.)

As stated above, in the present amendment, Applicants have cancelled claims 1-9. Thus, Applicants respectfully submit that the rejection of claims 1-9 under 35 U.S.C. § 103(a) has been rendered moot. Nevertheless, to the extent the Examiner may possibly consider making a similar rejection regarding new claims 10-18, Applicants provide the following comments.

Applicants respectfully submit that the Official Action has impermissibly resorted to impermissible hindsight reasoning using Applicants’ disclosure as a guide, in formulating the rejection. More specifically, the Official Action has impermissibly pieced together four distinct references, i.e., AAPA, SHAMOON, HERPEL, and TAKAKU, by selectively picking various pieces of each reference and combining these pieces in a highly selective manner. Applicants submit that the particular combination asserted in the Official Action would not have been obvious to one of ordinary skill in the art at the time of the invention, given the relatively limitless number of possible combinations that could have been formed. Instead, Applicants submit that the Official Action formulated the particular combination by following Applicants’ own disclosure as a roadmap, instead of relying on the knowledge of one of ordinary skill in the

art at the time of the invention. Accordingly, Applicants respectfully submit that the asserted rejection is improper.

Nevertheless, Applicants respectfully submit that even with piecing together the four distinct references in the manner asserted, the combination of AAPA, SHAMOON, HERPEL, and TAKAKU fail to disclose or render obvious the specific combination of claimed features. For instance, with respect to independent claims 1 and 3, the Official Action acknowledges that neither AAPA, nor SHAMOON, nor HERPEL disclose an IPMP tool that may be specified in a plurality of ways. (See Official Action, page 8.) However, the Official Action asserts that TAKAKU discloses this feature, citing sections of TAKAKU, from column 12, line 32 to column 13, line 23, and from column 15, line 1 to column 16, line 35.

Contrary to this assertion, Applicants respectfully submit that the cited sections of TAKAKU fail to disclose the specifically recited plurality of ways that an IPMP tool may be specified. More specifically, TAKAKU fails to disclose the explicitly recited feature: *wherein the IPMP tool may be specified in a plurality of ways, including by using a fixed bit length IPMP tool ID, by using a list of IPMP tool IDs representing equivalent alternative tools, and by specifying standards that must be satisfied by the IPMP tool* (emphasis added).

Applicants respectfully submit that this same feature is also explicitly recited in each of new independent claims 10 and 12. Thus, for at least the reasons discussed above, Applicants submit that new independent claims 10 and 12, and related dependent claims 11 and 13-18, are patentably distinct over AAPA, SHAMOON, HERPEL, and TAKAKU.

Claims 1-9 were also rejected under 35 U.S.C. § 102(e) as being anticipated by SHEN. As stated above, in the present amendment, Applicants have cancelled claims 1-9. Thus, Applicants respectfully submit that the rejection of claims 1-9 under 35 U.S.C. § 102(e) has been

rendered moot. Nevertheless, to the extent the Examiner may possibly consider making a similar rejection regarding new claims 10-18, Applicants provide the following comments.

Applicants respectfully submit that while the Official Action asserts that SHEN anticipates claims 1-9 and generally cites various paragraphs of SHEN, the Official Action does not provide a specific discussion of how SHEN discloses the various features recited in claims 1-9. After reviewing the various cited paragraphs of SHEN, Applicants submit that SHEN fails to anticipate the claims, since SHEN does not disclose each and every feature recited in the claims.

For instance, Applicants submit that the Official Action has not identified a specific section in SHEN that discloses the explicitly recited feature: *wherein the IPMP tool may be specified in a plurality of ways, including by using a fixed bit length IPMP tool ID, by using a list of IPMP tool IDs representing equivalent alternative tools, and by specifying standards that must be satisfied by the IPMP tool* (emphasis added).

Applicants respectfully submit that this same feature is also explicitly recited in each of new independent claims 10 and 12. Thus, for at least the reasons discussed above, Applicants submit that new independent claims 10 and 12, and related dependent claims 11 and 13-18, are patentably distinct over SHEN.

In conclusion, in view of the discussion and remarks provided above, Applicants respectfully submit that new claims 10-18 are in proper form and are patentable over the cited references. Accordingly, Applicants respectfully request that an indication of the allowability of claims 10-18 be provided in the next Official communication.

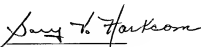
SUMMARY

From the amendments, arguments, and remarks provided above, Applicants submit that all of the pending claims in the present application are patentable over the references cited by the Examiner, either alone or in combination. Accordingly, reconsideration of the Official Action is respectfully requested, and an indication of allowance of claims 10-18 is now believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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